

APPROVED FOR RELEASE  
DATE: JUN 2001

FO 371/35952  
(F 4769)

~~RESTRICTED~~

(1)

OFFICE OF STRATEGIC SERVICES

Research and Analysis Branch

R&A 941

MUNICIPAL GOVERNMENT IN JAPAN

STATE DEPT. DECLASSIFICATION REVIEW

☐ Retain Class'n ☐ Change to \_\_\_\_\_  
☐ Declassify in part and excise as shown  
EO 12958, 25X ( ) ( ) ( ) \_\_\_\_\_  
☒ Declassify ☐ After \_\_\_\_\_  
☒ With concurrence CIA (not obtained)  
IPS by Henry Sandoz Date 7/27/00

30 June 1943

Copy No. \_\_\_\_\_

If and when this study outlives its  
usefulness to you, kindly return it to:

Office of Strategic Services  
Director, Research and Analysis Branch  
25th and E Streets, N. W.  
Washington, D. C.

(19083)

~~RESTRICTED~~

## MUNICIPAL GOVERNMENT IN JAPAN

### Preface

The following outline has been abstracted from an account of municipal government in Japan in the Horitsu Gaku Jiten (Dictionary of Jurisprudence), 1937 edition, Volume II, pages 1127-1135. This publication is the standard legal dictionary in Japan and the discussion of municipal government gives a concise description of its organization and function.

Insofar as possible, the phraseology and order of presentation of subject matter in the original text has been followed. The translation of mura and son as "township" instead of the generally accepted "village" has been followed throughout the outline, since the geographical implications of the term "township" are more in accord with the Japanese governmental unit referred to. Also, "head" has been used throughout, rather than "mayor", in translating the Japanese character cho, as the same term (in Japanese) is used for the chief officer in all types of municipal government.

The only additions have been a few explanatory interpolations enclosed in brackets and a supplementary note indicating the recent changes.

MUNICIPAL GOVERNMENT IN JAPAN

Outline abstracted from the  
Horitsu Gaku Jiten (Dictionary of Jurisprudence)

I. THE LEGAL CONCEPT OF A MUNICIPALITY

A municipality [including all the primary units of local government as city, town, and township] is a legal person. In this respect it differs from the prefecture, which is solely an administrative unit. For some purposes, however, the head of a municipality serves as an administrative agent for the national and prefectural governments.

The legal characteristics of a municipality are (1) a defined area, (2) residents within the area, (3) the existence of managerial powers over the area. Like other legal persons a municipality has its own name which cannot be changed without the consent of the supervising governmental unit.

There is no clear cut division of power between the national and local government over certain municipal areas. Laws pertaining to cities and their organization are somewhat different from those applying to townships and towns. The latter two, however, are governed by identical provisions.

### III. RESIDENTS AND CITIZENS OF MUNICIPALITIES

#### A. Residents.

An individual can have but one place of residence. He is free to choose for himself, and it follows that a municipality cannot forbid residence to anyone. Legal persons, as well as foreigners, can be residents of a municipality.

Residents of a municipality have the right to share in the use of municipal property and municipally managed enterprises. Conversely, they share a responsibility in municipal obligations. Even a mere sojourner in a municipality is permitted to use the municipal facilities and must pay taxes. However, only residents may obtain public relief.

The authority of the municipality extends over all persons who have property within the municipality or who are doing business there.

#### B. Municipal Citizens.

Municipal citizenship<sup>1</sup> (kominken) is the right of participating in the municipal government. It is granted to those residents who are (1) males over 25 years of age; (2) citizens of Japan; and (3) residents of a municipality for more than two years. This is a longer period of residence than that required for national franchise, but this requirement can be waived by the municipal assembly.

While municipal residence is open to all, municipal citizenship is specifically forbidden to any one who is (1) an incompetent; (2) who is bankrupt and has not repaid his creditors; (3) who is supported by public or private charity; (4) who has no fixed place of residence; (5) who has committed certain types of crime, or is an ex-convict.

Certain persons, even though they are not legal residents, are afforded the privileges of municipal citizenship by virtue of the office they hold, such as that of tax collector, salaried head of a municipality, his assistants, etc.

Furthermore, there are individuals who although having citizenship, are not permitted to exercise its rights. Those who have refused to assume public office without salary, or have declined to discharge civic duties, may be deprived of their rights of citizenship for a period. Also, soldiers in active service are not permitted to take part in municipal activities.

#### C. Rights and Duties of Citizens.

The principal rights of a citizen are to vote and to be elected to municipal office where service is without compensation. Those elected officials include members of municipal assemblies and city councils, unsalaried heads of municipalities, and unpaid assistants in towns or townships.

---

<sup>1</sup> There are two terms in Japanese for "citizen", komin (literally, municipal citizen) and shimmin (national citizen). The former refers only to the citizens of a municipality who are described in this section. National citizenship apparently has much the same connotation in Japan as in America.

#### IV. ORGANS OF A MUNICIPALITY

The principal organs of a municipality are the assembly, which has legislative functions, and the office of the municipal head, which is an administrative agency. A city has a supplementary legislative body, the city council.

##### A. The Municipal Assembly.

1. Powers. The municipal assembly is the principal representative body as well as the highest policy-forming body (ishikikan) in the municipality. Its chief powers are legislative, although other types of powers are given to it as well.

a. Legislative Powers. The municipal assembly may legislate in accordance with national laws and ordinances. It does so without consulting other agencies and is not subject to questioning by other organizations. Prefectural and national supervision are excepted. The national laws merely enumerate important fields in which the municipal assembly may legislate, i.e., revision of municipal ordinances, budgetary matters, levy of taxes, overseeing of property, etc.

In addition to powers thus specifically delegated to it, strong presumptions exist that the assembly can legislate concerning other affairs of the municipality, because it is the primary municipal agency for expressing the public will. However, the assembly has no power to legislate concerning those matters which are delegated to the municipal head, or to the municipal council in the case of cities.

The enforcement of the laws is left up to the municipal head; the assembly does not attempt it.

Formerly, the power of municipal assemblies to introduce bills was contested but the issue was settled in 1929 by national legislative action. In that year the Diet provided that the assembly could institute all types of bills, save those pertaining to the budget. The presentation of bills requires a written statement by three members of the assembly.

b. Power of Settling Disputes. Assemblies have the power to decide disputes regarding the condition of election rolls, balloting and elections, and refusals to accept elective office.

Cities differ from towns and townships concerning certain items which may be decided by their municipal assemblies. Town and township assemblies make decisions relating to protests on salaries, traveling expenses, and other types of pay, while in cities the council acts on these matters. The procedure in such cases is for the party concerned to file a protest with the municipal head. In such administrative matters as these, the assembly really acts as a court of first instance and appeals may always be taken to the higher courts.

c. Power to Elect Certain Officials. The municipal assembly has the power to elect certain officials. This is established by law. Thus, it elects (1) the municipal head; (2) members of the municipal council for cities; (3) assistant officials and treasury officials in those cases where there is no municipal head.

The duties of the assembly chairman include opening and adjourning the meetings, presiding over the sessions, determining the agenda, and preserving order on the floor. He is given a certain measure of police power to enable him to accomplish this.

c. Method of Voting. The method of voting in the municipal assembly differs somewhat from that of the Diet. Any number of members over one-half constitutes a quorum, and decision is by majority vote. The chairman is entitled to vote in case of a tie. However, in the case of a city assembly, the president (being a member of the assembly) has a vote of his own.

### 3. Election and Status of Members of Assemblies.

a. Number of Assemblymen. The number of assemblymen in municipalities is proportionate to the population. Towns and townships with a population under 5,000 have an assembly with a minimum of twelve members, and towns of 20,000 and over have an upper limit of thirty members. Cities under 50,000 also have an assembly of thirty members, and the accepted number for cities of 300,000 and over is forty-eight members, although there is no maximum for city assemblies set by law.

The above figures are not unchangeable, and at the time a general election is at hand, if extreme changes in population have occurred, revisions in the number of assemblymen may be made by the proper government supervisory office.

b. Franchise and Eligibility for Election. All citizens of the municipality have the right to vote for members of the municipal assembly except those who have been deprived of their rights of citizenship, or who have been conscripted into military service /as described above/.

It is a fundamental rule that all citizens are eligible for election to the assembly, but there are a few exceptions. As there are obstacles to the participation in campaigns or in the work of the assembly by procurators, police, tax-collectors, etc., they are denied the right of being elected. Furthermore, salaried municipal officials or those holding jobs connected with elections are likewise ineligible.

The following individuals, while not disqualified from standing for election cannot take office as long as they continue in their positions, (1) salaried officials of the municipality; (2) school teachers; (3) others who receive funds from municipalities; and (4) persons who manage businesses which have a direct financial connection with the city by contract or in other ways.

In addition, no official of the /national and prefectural/ government can hold the office of assemblyman without the consent of his superior. Unless this statement of consent is given within a certain period of time after the election, it is presumed that the official /who is a successful candidate/ has resigned his post.

c. Election Areas. The general rule is that municipal assemblymen are not elected separately by subdivisions within a municipality, but from the municipality as a whole. However, an exception is made in the case of the three large cities, wherein voting is done by wards. Other cities can adopt this system by legislation.

~~RESTRICTED~~

2. Composition. The city council is made up of a council chief and a number of councilmen who serve without salary. The chief is the city head. In the event of his incapacity a deputy acts for him.

There are ten councilmen, although in the six largest cities, the number is increased to 15. They are elected from within the assembly, on alternate years.

Power of convocation rests with the city head, but if more than half of the members request a meeting, the city head is obliged to call one.

3. Powers. The powers of the city council are limited. It can act upon all matters within the jurisdiction of the assembly only when an incoming assembly has not convened in times of emergency when it cannot be called together. In all cases the city head must initiate measures.

On normal occasions, the assembly's general powers of decision and investigation are not delegated to the council and the council has merely the following powers. 1) It may make certain decisions, as for example, in the case of protests concerning the payment of fees, traveling expenses, or salaries, and concerning the levying of city taxes and other burdens. 2) It may extend the time of payment of taxes beyond the current year. 3) It may borrow money temporarily. 4) In addition, the council may present written advice to the competent authorities, instigate litigation, and appeal from judicial decisions.

4. Rules of Meeting. The meetings of a city council follow rules similar to those of the assembly but they are not open to the public.

C. The Head of a Municipality.

1. Function and Authority. The chief function of the head of a municipality is to administer municipal affairs. In addition, he represents the municipality in any matter connected with outside groups. In cities he convokes and dismisses the assembly; and in towns and townships he is the presiding officer.

His more important powers are to present bills to the municipal assembly and the city council; and when they are passed to assume the oversight of their execution; to regulate municipal finances; to direct municipal establishments; to supervise accounting; to levy and collect village taxes; to control and direct municipal officials. In some cases these powers are vested in the office, while in other cases, they are assumed only with the consent of the assembly.

In addition to the above powers, others may be left completely to the disposition of the head by vote of the assembly or city council.

The assembly and council are independent of the head, and he cannot interfere with their decisions. However, he may return for reconsideration decisions voted by the assembly which in his opinion are illegal, inappropriate, or impossible of execution; or which cancel or reduce essential expenses approved by law. In special cases he need not submit such matters for reconsideration, but can carry the problem to the higher prefectural council or the prefectural governor and ask for a decision directly. The right of re-submission is limited to legislative matters and does not extend to protests or disputes decided by the assembly.

## V. POWERS AND FUNCTIONS OF MUNICIPALITIES

Municipalities have both legislative and executive powers.

### A. Municipal Legislative Power.

1. Municipal Regulations and Rules. Municipalities may make regulations pertaining to the general rights and duties of their residents, and their obligations to the municipality. That is to say, the municipality is granted the power of establishing laws and rules through legislation by the elected representatives of its citizens which are binding upon the inhabitants.

The establishment, abolition, or revision of municipal regulations requires the vote of the assembly and the consent of the proper authorities.

According to law certain specific situations concerning municipalities require national legislation /and beyond the jurisdiction of the assemblies/. Examples of these are (1) a change in the number of members of a municipal assembly, (2) a change in the number of assistants to the head, (3) alterations in salaries or commissions, (4) matters bearing on special taxes.

This municipal power of regulation of the rights and duties of the inhabitants is not unlimited, extending only over fundamental duties to the municipality which are held by all residents, and over spheres in which responsibilities have been delegated to the municipalities.

In addition to this power to make regulations, municipalities also have the right to lay down rules for municipally managed establishments and the use of municipal property. These rules are not formal laws and they pertain only to the regulation of municipal property. The procedure for the enactment of such rules is simple, for there is no need of approval by any higher governmental office after passage by the municipal assembly.

A regulation or rule must not run contrary to law. If it does, the particular provision is without effect.

### B. Municipal Administrative Powers.

1. Power of Organization. The framework for the organization of municipalities is fixed by national law. Although within the limits of this framework, municipalities are free to determine their own governing structure. There are many cases where municipalities have enacted special provisions.

2. Power of Conducting Civic Enterprises. The powers of a municipality center around the establishment and operation of various types of public benefit enterprises, without important corroborative powers of enforcing compliance.

Since municipalities are legal entities which exist in order to conduct public affairs they have broad powers of initiating and engaging in business, insofar as there is no infringement on the prerogatives of the national government. It is impossible to enumerate all the public enterprises in which a municipality may engage, but they are of the following types:



Some doubt exists as to the extent to which a municipality has the capacity to act beyond its own boundaries. The problem may arise as to the ownership and management of a park, a water reservoir, or a graveyard outside the municipal area. Since a municipality acts by making regulations which are binding on residents, it is apparent that complete municipal management of an area or enterprise outside its borders will violate some of the self-governing rights of another municipality. In such cases the municipalities concerned settle the question by prior contract.

C. Municipal Obligations.

A municipality has obligations as well as rights and powers. Some of these obligations are imposed by the national government and the prefectural government, as the so-called entrusted duties and enterprises: schools, roads, riparian works, etc. The municipality assumes the obligation of carrying them out and of continuing their support, entrusting the execution and administration to the head.

~~RESTRICTED~~

- 14 -

## VI. MUNICIPAL FINANCE

### A. Municipal Property.

The intention of the law concerning municipal finance is that the income from municipal property will defray municipal expenses, unlike the prefectural and national governments which depend primarily on taxes. For this reason, the law has encouraged the setting aside of endowed property, the income from which is the usual source of municipal revenue. A second source of revenue is the income from special municipal endowments, which are set up for some designated purpose. The establishment of these is not a duty of the municipality. In both cases only the income can be spent and the reinvestment of the capital requires the approval of the proper authorities.

A third form of municipal property is that of cash reserves. These consist of valuable securities, bonds, grain, and cash which have been set aside with some special object in mind, usually relief in time of poor harvest. These are set up at the will of the municipality. Unlike the endowments, both capital and income may be used.

In addition, municipalities, like the government, may own communal property and property operated for public benefit. In both cases fees for use may be charged.

Both communal property and property operated for public benefit are dedicated to the use of the general public with two exceptions. One is when by long tradition only a part of the municipality's inhabitants may have the right of use. The second is that property can be utilized to the profit of only a part of the inhabitants. Obviously the municipality may require operating fees from the holders of such special rights.

### B. Municipal Powers of Taxation.

A municipality has the power to levy taxes when the income from municipal property, resources, commission, fines, etc., is not adequate to meet expenses.

1. Municipal Tax. There are two types of municipal tax: an "additional" tax, and a "special" tax. An "additional" tax is a surtax levied on the usual prefectural and national taxes. A "special" tax involves the creation of a new subject of taxation and the levy of a tax upon it. Taxes require the consent of the authorities, and must comply with the formalities of municipal law. There are now certain laws restricting the kinds of "special" taxes which may be levied by a municipality, and also the rates of "additional" taxes.

Not only municipal residents but also individuals who have resided in the municipality for three months or more may be taxed. In addition, individuals who own property or conduct business in a municipal area are subject to property or transaction taxes.

The general rule is that taxes are borne equally by residents of municipalities. However, on occasion, where a section of the municipality is provided with an institution (or public enterprise) bringing them special benefits, the residents of that section may be specially taxed.

2. Prestation. Prestation is a levy resembling a tax paid in services or materials. It is a general obligation levied upon all residents but substitute payment in money is permitted. If the obligation is not fulfilled, it may be secured by execution in the same manner as taxes.

(19083)

C. Municipal Accounting.

1. Budget. Receipts and disbursements are made according to a budget. The budget is prepared by the municipal head and must be passed by the assembly at least one month before the beginning of the new fiscal year. The municipal budget differs from the national budget, however, in that (1) as the expressed intention of the municipality it is binding on the executive agencies; (2) it determines the rate of taxation that must be levied; (3) it may be revised by the national administrative officials.

The general principles involved in the formation of a municipal budget are similar to those of the national budget, as a fiscal year, a total budget, continuing expenses, and emergency funds.

In cases where the municipality fails to adopt a budget a national administrative official may draft it, and in cases where swift disposition is necessary, the municipal head may decide himself. Therefore, there are never cases where a budget does not exist.

2. Receipts and Disbursements. The municipality has a duty to pay various expenses for which it is responsible by law out of its income from property, taxes, levies, and other sources.

In accordance with the general principles of finance, even in the case of municipal agencies, a distinction is made between the executive agent and the fiscal agents. The former is the municipal head or his assistant. The latter are those officials who accept payments or disburse funds by his order. However, the fiscal agents have an independent legal position apart from the head /that is, apart from his authority/ and they have the right to examine his financial orders.

3. Investigation of Financial Matters and Auditing of Books. The power of investigating receipts and expenditures is given to both the administrators and to the assembly /or council/. The investigations of the municipal head are of two sorts: regular and special, the latter requiring the presence of members of the assembly or council.

An audit must be made by the municipal treasurer within a month after the closing of accounts, and is presented to the municipal head. After his examination, it is submitted to the assembly.

4. Municipal Indebtedness. There are two kinds of municipal indebtedness: One is a formal obligation /long-term loan/ which lasts for a period of two years or more. The other is a temporary indebtedness /short-term loan/ created to meet a payment specified in the budget which must be repaid within the year.

The formal obligation which a municipality is to meet in the future has legal provisions governing its creation which must be strictly followed. Such an indebtedness is only allowed for the repayment of a debt, for an expenditure which will be of permanent profit, or for emergency needs following some disaster. The creation of the debt must be approved by the municipal assembly, the Minister of Home Affairs and the Finance Minister. Not only the loan itself but also the rate of interest, methods of flotation, financing, and discharge must be approved. The procedure for the creation of a temporary debt is simple. The passage of a motion to that effect by the assembly /or city council/ is enough. No consent of higher authorities is required.

~~RESTRICTED~~

- 16 -

## VII. SUPERVISION OF MUNICIPALITIES

### A. Organs of Supervision

The principal general supervisory agent for a municipality is the prefectural governor; the next in importance is the Minister of Home Affairs. However, for special administrative duties, other ministers such as the Minister of Education and the Minister of Finance have concurrent powers.

### B. Forms of Supervision

Methods of supervision over municipalities required by law are of two types: preventive and corrective. Such supervision is performed in a number of ways.

1. Inspection. The supervisory officials for municipalities are required to examine municipal documents, books, accounts, etc. Notice of such an intention is given to the municipal authorities in advance.

2. Orders and Dispositions. The supervising authorities in general may issue such orders or make such dispositions as are necessary for supervision. However, since a broad interpretation or abuse of this method of supervision would completely destroy the right of self-government, it is limited to enforcement of duties already fixed on a municipality by law.

3. Authorization. There are many acts of a municipality requiring the consent of the supervising officials. In such cases, the municipality really does not act of its own volition, but simply gives the proper authorities a chance to inspect and to decide. In some cases the authorities can make modifications on their own initiative if they are not contrary to the original request and then grant permission for the new arrangement.

The law has indicated the officials holding powers of authorization and specifies the situations wherein authorization is needed. However, by Imperial ordinance, this power can be delegated to a subordinate official in certain cases. In trivial matters, the authorization may be dispensed with.

Furthermore, the power of authorization (by supervising officials) is somewhat restricted in the case of the six large cities.

4. Cancellation. In some special cases the authorities have the power of setting aside or cancelling municipal acts, e.g., when an act of an assembly or city council, or the results of an election exceed the legal limits, or are contrary to law.

5. Substitute Legislation and Substitute Enforcement. In some situations, the authorities may substitute their own decisions for that of the legislative body.

The law provides that at times when the assembly or the city council has passed an act which is not appropriate, the head may "ask the advice of the governor," and the governor acts as a substitute legislative organ. Compulsory budgets are a form of this substitute legislation.

RESTRICTED

At times when the municipal officials have not carried out their duty, the authorities may request that they act or may themselves carry out the administration. This substitute administration occurs whenever there is a breakdown in the executive organ of the municipality.

6. Dissolution of the Municipal Assembly. The Minister of Home Affairs can order the dissolution of an assembly. There are no express provisions governing the situation. This is the most extreme step and is taken only after all other corrective measures have failed. Within three months after dissolution a new election must be held.

7. Reprimand of Officials. /Citation only given./

~~RESTRICTED~~

- 18 -

#### VIII. SPECIAL MUNICIPAL SYSTEMS

The above discussion applies to Japanese municipalities in general. Needless to say, a special system applies to Korea and other possessions. Even in Japan island areas and Hokkaido have special administrations for towns and townships. As a general rule there is no distinction between cities, towns, and municipalities under the municipal system, but there are certain exceptions, such as the "three large cities" / Tokyo, Osaka, Kyoto and the "six large cities" / the above plus Nagoya, Kobe, and Yokohama/. In the 64th Diet the Government introduced a Tokyo-to bill providing for the creation of a special municipality, Tokyo-to, out of the area of Tokyo-fu.

Supplementary Note

Since 1937, changes of some consequence have taken place in Japanese municipal government, although more in the practical operation than in the modification of formal law. Probably the most important change has been the growth of the Imperial Rule Assistance Association which, as the single government-sponsored political party, now dominates local politics through the endorsement of candidates for election. In addition to this development, the supervisory powers of national and prefectural authorities, over both the fiscal and administrative aspects of municipal government, have been exercised in an increasing degree as total mobilization has been realized, and in some rural prefectures, intermediate supervisory units, between the prefectures and the municipalities, have been established.

Recent Diet legislation has further reduced the opportunity for self-government by municipalities and correspondingly increased the authority of the national and prefectural supervisors. The precise nature of the changes is not clear, for the text of the laws is not available. It appears that the prefectural governor now has the right to approve the election of heads of towns and townships, and to dismiss those local officials from office if "there is friction between the mayor and the town or village assembly, and if the mayor is considered to be in the wrong." Similar controls are probably also imposed upon city officials, although they appear to be exercised directly through the Minister for Home Affairs. The 81st Diet passed a Tokyo Municipality Administration Bill. The Privy Council approved on 9 June 1943 an Imperial Ordinance introduced by the government for the organization of the Tokyo Municipality to go into effect on 1 July 1943.

The Diet has been criticized for failure to act in defining the relationship between a municipal head and various quasi-governmental bodies which have been set up in the last few years.

However, it is not likely that the fundamental patterns of municipal government have changed greatly in the last six years from those presented in the outline.